



Entered on Docket
March 11, 2009

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY,

USA CAPITAL REALTY ADVISORS, LLC,¹

USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,

USA CAPITAL FIRST TRUST DEED FUND, LLC,²

USA SECURITIES, LLC,³

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under
Case No. BK-S-06-10725 LBR

**ORDER SUSTAINING SEVENTH
OMNIBUS OBJECTION OF USACM
LIQUIDATING TRUST TO DUPLICATE
PROOFS OF CLAIM**

Hearing Date: February 20, 2009
Hearing Time: 9:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 The Court having considered the “Seventh Omnibus Objection of USACM
2 Liquidating Trust to Duplicate Proofs of Claim; and Certificate of Service” [Docket No.
3 6740] (the “Objection”); the Court having heard the matter on February 20, 2009;
4 appropriate notice of the Objection having been given; no response to the Objection
5 having been filed; and good cause appearing:

6 **IT IS HEREBY ORDERED** that:

- 7 1. The Objection is sustained;
- 8 2. The duplicate claims listed on Exhibit A to this Order are disallowed in their
9 entirety; and
- 10 3. The surviving claims listed on Exhibit A to this Order are not affected by
11 this Order, but may be subject to further objection.
- 12

13 PREPARED AND RESPECTFULLY SUBMITTED BY:

14 **LEWIS AND ROCA LLP**

15 By /s/ John Hinderaker (018024)
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John Hinderaker (*pro hac vice*)
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19
20 *Attorneys for USACM Liquidating Trust*

21 APPROVED/DISAPPROVED

22
23 By: _____
August Landis
24 Assistant United States Trustee

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In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☐ No parties appeared or filed written objections, and there is no trustee appointed in this case.
- ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below (list each party and whether the party has approved, disapproved, or failed to respond to the document):

U.S. Trustee:	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input type="checkbox"/> waived the right to review the order and/or	<input checked="" type="checkbox"/> failed to respond to the document
Other Party:	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document

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Submitted by:

LEWIS AND ROCA LLP

By: /s/ JH (#018024)
 Rob Charles
 John Hinderaker (*pro hac vice*)
Attorneys for USACM Liquidating Trust

EXHIBIT A

USA – DUPLICATE CLAIMS TABLE (7)

<u>Claimant's Name and Address</u>	<u>Duplicate Claim #</u>	<u>Duplicate Claim Amount</u>	<u>Basis for Objection</u>	<u>Surviving Claim #</u>	<u>Surviving Claim Amount</u>
Benjamin, Philip & Maureen P.O. Box 376 Indian Springs, NV 89018-0376	10725-01956	\$55,381.90	The claim is based on investment in MS Acquisition Company and is duplicate of Claim #10725-02320. The USACM Liquidating Trust requests claim #10725-01956 be disallowed in its entirety.	10725-02320	\$55,381.90
USA Commercial Real Estate Group c/o Jeffrey R Sylvester Esq Sylvester & Polednak Ltd 7371 Prairie Falcon Rd, Ste. 120 Las Vegas, NV 89128	10725-01982	\$10,719.49	The claim is a duplicate of claim #10725-02318. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-01982 be disallowed in its entirety.	10725-02318	\$10,719.49
Cynthia Milanowski Trust c/o Jeffrey R Sylvester Esq Sylvester & Polednak Ltd 7371 Prairie Falcon Rd, Ste. 120 Las Vegas, NV 89128	10725-01984	\$26,891.23	The claim is a duplicate of Claim #10725-02317. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-01984 be disallowed in its entirety.	10725-02317	\$26,891.23
Milanowski, Nv & J Marlene 1004 Haley Pl Delta, CO 81416-2443	10725-01986	\$31.52	The claim is based on investment in Brookmere/Matteson and is a duplicate of claim #10725-02316. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-01986 be disallowed in its entirety.	10725-02316	\$31.52

<u>Claimant's Name and Address</u>	<u>Duplicate Claim #</u>	<u>Duplicate Claim Amount</u>	<u>Basis for Objection</u>	<u>Surviving Claim #</u>	<u>Surviving Claim Amount</u>
Wisch, Craig 210 Andrew Ave Naugatuck, CT 06770	10725-02010	\$317,369.28	The claim is a duplicate of claim #10725-02180. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-02010 be disallowed in its entirety.	10725-02180	\$317,369.28
Ruth Zimmerman & Moshe Kirsh Jtwros 15721 Milbank St Encino, CA 91436	10725-02032	\$244,311.94	The claim is based on investment in Marquis Hotel and Riviera-Homes for America Holdings LLC and is a duplicate of Claim #10725-02033. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-02032 be disallowed in its entirety.	10725-02033	\$244,311.94
Marguerite Falkenborg 2000 Trust Dtd 6/20/00 c/o Marguerite Falkenborg Ttee 727 3 rd Ave Chula Vista, CA 91910-5803	10725-02068	\$814,366.81	The claim is a duplicate of claim #10725-02202. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-02068 be disallowed in its entirety.	10725-02202	\$794,366.81
Duberg, John H 4455 Vista Coronado Dr Chula Vista, CA 91910-3234	10725-02069	\$87,877.81	The claim is based on investment in Slade and Bay Pompano Beach and is a duplicate of Claim #10725-02201. This claim was erroneously filed twice. The USACM Liquidating Trust requests claim #10725-02069 be disallowed in its entirety.	10725-02201	\$87,877.81

<u>Claimant's Name and Address</u>	<u>Duplicate Claim #</u>	<u>Duplicate Claim Amount</u>	<u>Basis for Objection</u>	<u>Surviving Claim #</u>	<u>Surviving Claim Amount</u>
Doerr Family Trust Dated 9/12/02 Franz J Doerr Shelter Trust of the Doerr Family Linda Patrucco Doerr, Ttee 690 West Riverview Cir. Reno, NV 89509-1130	10725-02114 10725-02115	\$659,484.08 \$659,484.08	The claims are based on investment in Harbor Georgetown, Palm Harbor One, and Tabia Ranch. They are exact duplicates and are amended by claim #10725-02116. The USACM Liquidating Trust requests claim #10725-02114 and 10725-02115 be disallowed in their entirety.	10725-02116	\$659,484.08
Burgarello Inc Profit Sharing Plan c/o Ronald A Johnson Ttee 50 Snider Way Sparks, NV 89431-6308	10725-02128	\$405,600.00	The claim is based on investment in Wasco Investments, J Jireh's Corporation, Gateway Stone, and Elizabeth May Real Estate and is a duplicate of claim #10725-02263. This claim was erroneously filed twice. The USACM Liquidating Trust request claim #10725-02128 be disallowed in its entirety.	10725-02263	\$405,600.00